

INITIAL STATEMENT OF REASONS/PLAIN ENGLISH
OVERVIEW/NON-CONTROLLING SUMMARY

PROPOSED REGULATION 1534, TIMBER HARVESTING EQUIPMENT AND MACHINERY

Regulation 1534 is proposed to be promulgated to interpret, implement and make specific recent additions to the Sales and Use Tax Law.

Specific Purpose

The purpose of the proposed regulation is to interpret, implement, and make specific Revenue and Taxation Code section 6356.6, granting a partial exemption from tax for sales of certain off-road equipment and machinery provided by statute under defined conditions. This regulation is necessary to provide guidance to taxpayers involved in the sale and purchase of such property.

Factual Basis

Proposed Regulation 1534 discusses the application of tax to sales of off-road commercial timber harvesting equipment and machinery. It interprets, implements, and explains the exemption from state, but not local or district, sales and use tax (“partial exemption”) enacted as Revenue and Taxation Code section 6356.6 (AB 426, Stats. 2001, Ch. 156, § 5). It prescribes the elements that must be contained in a partial exemption certificate and provides procedures by which refunds for the tax may be claimed if a certificate is not timely presented. It also specifies the application of and liability for tax if a partial exemption certificate is used improperly. The regulation specifies that the purchaser must keep adequate records to support the partial exemption and sets forth the statutory operative date of September 1, 2001.

Subdivision (a) describes the nature of the partial exemption. Subdivision (b) provides definitions of the terms used in the regulation. Subdivisions (b)(1) and (2) clarify that the terms “commercial timber harvesting operations” and “off-road commercial timber harvesting equipment and machinery” also include activities and equipment associated with fire hazard abatement, reforestation, and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities since such activities are required by the California Public Resources Code as part of a timber harvesting plan. Subdivisions (c) and (d) interpret and implement the general provisions of the Sales and Use Tax Law regarding the use of exemption certificates and prescribe the elements that an exemption certificate must contain. Subdivision (e) explains how refunds for payment of tax on transactions subject to the partial exemption may be claimed and implements the general principle that the retailer claiming the exemption must refund the tax or tax reimbursement to the qualified purchaser. Subdivisions (f) and (g) explain that tax applies to the sale or purchase of equipment or machinery that is used in a non-qualifying manner and who is liable for the tax.

Subdivision (h) explains how the partial exemption applies to leases of qualified equipment and machinery to qualified persons. Subdivision (i) sets forth the general requirement that adequate records must be maintained to support the exemption. Subdivision (j) specifies the statutory operative date of September 1, 2001. Appendix A sets forth a sample form of an exemption certificate.

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization finds that the adoption of the proposed amendments will not have a significant adverse economic impact on private businesses or persons. The regulation is proposed to interpret, implement, and make specific the authorizing statute for greater ease of understanding. This addition will clarify the interpretation or administration of the sales and use tax laws. Therefore, the Board has determined that this addition will not have a significant adverse economic impact on private businesses or persons.